

COASTAL CONSERVANCY

Staff Recommendation
March 25, 2004

PETALUMA MARSH RESTORATION EXPANSION

File No. 97-042
Tom Gandesbery

RECOMMENDED ACTION: Authorization to disburse up to \$1,659,301, to be reimbursed by the Department of Transportation and the Wildlife Conservation Board, to the Marin Audubon Society to restore marsh habitat to a 102-acre property adjacent to Petaluma Marsh.

LOCATION: Lower Petaluma River on San Antonio Creek, a tidal slough, adjacent to the Redwood Landfill and east of Highway 101, Marin County (Exhibits 1 and 2)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy/Resource Enhancement

EXHIBITS

Exhibit 1: Location Map

Exhibit 2: Site Map

Exhibit 3: June 25, 1998 Staff Recommendation

Exhibit 4: CEQA Initial Study, Negative Declaration

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31164 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed one million six hundred fifty-nine thousand, three hundred one dollars (\$1,659,301) to Marin Audubon Society for implementation of Petaluma Marsh Expansion Project, subject to the following conditions:

1. Prior to the disbursement of any funds under this authorization, the Executive Officer shall review and approve in writing a work program and the names and qualifications of all contractors to be employed for the project.
2. Funds disbursed pursuant to this authorization shall be reimbursed by the California Department of Transportation, in the amount of one million, three hundred twenty thousand, three hundred one dollars (\$1,320,301), pursuant to an Interagency Agreement among the Conservancy, the Department of Transportation, and the Department of Fish and Game, providing for the restoration of 50 acres of tidal marsh by the Department of Transportation as mitiga-

tion for the unavoidable impacts of its Sonoma Creek Bridge Project; and in the amount of three hundred thirty-nine thousand dollars (\$339,000) by the Wildlife Conservation Board pursuant to a Memorandum of Understanding. The Executive Officer is authorized to enter into necessary amendments, memoranda or other agreements to carry out this authorization.

3. Marin Audubon Society shall erect signs on the property acknowledging the funding assistance of the Conservancy and its project partners, in a manner approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that

1. The Petaluma River Marsh Expansion Project is consistent with the Conservancy’s authorization of June 25, 1988, accepting Caltrans mitigation funds and authorizing the preparation of a resource enhancement plan for the restoration of wetlands at the Redwood Landfill property; and with the purposes and goals set forth in Chapters 4.5 and 6 of Division 21 of the Public Resources Code.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. Marin Audubon Society is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.
4. The Conservancy has reviewed the Initial Study and Negative Declaration for the project adopted by the Department of Transportation on August 8, 2000, and attached to the accompanying staff recommendation as its Exhibit 4, and concurs that there is no substantial evidence that the project will have a significant impact on the environment, as defined in 14 California Code of Regulations Section 15382.”

PROJECT SUMMARY:

Staff recommends authorization to disburse to the Marin Audubon Society (1) up to \$1,320,301 of Caltrans funding, and (2) up to \$339,000 of San Francisco Bay Area Conservancy Program funding from the Wildlife Conservation Board to restore the Petaluma River Marsh Expansion site. The site is located immediately north of the Redwood landfill and east of Highway 101 (Exhibit 1). In June 1998, the Conservancy authorized the acceptance of mitigation funds from the Department of Transportation to restore at least 50 acres of tidal marsh on this site, and the disbursement of funding to the Marin Audubon Society for preparation of a resource enhancement plan, permitting, and environmental review (Exhibit 3). Marin Audubon has completed planning and permitting for the project, and has acquired title to the property. This authorization would enable the restoration work to go forward over an expected three-year period.

The restoration site is located on a 180-acre parcel acquired by Marin Audubon in 2003. A 102-acre portion of the site will be restored to tidal habitat in 2004 and 2005. The remaining acreage is existing wetland and levee area which will not be altered. Prior to breaching the levee to San Antonio Creek, a tidal slough, Marin Audubon will have a flood control levee constructed along

the western boundary of the site (Exhibit 2). The levee is necessary to protect the Northwestern Pacific Railroad Authority right-of-way from tidal waters. Additionally, existing site drainage will be modified to promote marsh restoration. A monitoring and adaptive management plan has been completed and approved by the regulatory agencies and all necessary permits have been obtained. The project suffered several years of delay due to railroad right-of-way, engineering and permitting issues, as described below.

Background: The goal of the project is to restore the site to tidal marsh habitat by breaching the levees on the north and east sides of the property.

The proposed authorization would fund construction of a tidal wetland project and is expected to take two to three years to complete. After the project is complete, ownership of the site will be transferred to Department of Fish and Game for permanent management and inclusion into the adjacent Petaluma Marsh Wildlife Management Area. Funding for the project is primarily provided by Caltrans, in order to satisfy mitigation requirements for the widening of Highway 37 at Tolay Creek in 1998. The mitigation requirement for Caltrans is to fund 50 acres of tidal marsh representing nearly 50 percent of the total restored acreage (50 of 102).

Pursuant to the 1998 authorization (Exhibit 3), the Conservancy entered into an agreement with Caltrans and the Department of Fish and Game to accept these mitigation funds and to oversee project implementation by the Marin Audubon Society. To date, the Conservancy has provided Marin Audubon \$43,000 for planning and design work, all of which has been reimbursed by Caltrans under the agreement. Caltrans has reserved \$1.325 million to cover its share of project costs, including additional funding over and above amounts committed under the original agreement. The current budget for the project indicates a budget shortfall of approximately \$339,000 and staff is proposing to fund this difference with Proposition 50 bond funds (see the "Project Financing" section below).

Under the Interagency Agreement, the Conservancy is responsible for administering funds to the Marin Audubon to complete the project, including amounts in excess of Caltrans' mitigation obligation, and to oversee its implementation. Caltrans is responsible for funding a proportional share of the project (59%) in order to fulfill its mitigation requirements. Finally, DFG will accept the property as an addition to its wildlife management area once construction is complete and a monitoring program is established. The Interagency Agreement will be amended to reflect the increase in the project budget over the original amount.

Site Description: The project area is 184 acres, approximately 102 acres of which are historic tidal baylands and the remaining 82 acres are existing tidal wetlands. The proposed project would restore tidal action to a property that was historically part of the Petaluma Marsh complex, but was diked off from tidal action in the 1960s. The property has been fallow with minimal grazing of cattle since that time.

The site is located immediately north of the Redwood Landfill, the major sanitary landfill for Marin County. The landfill owner recently sold the property to Marin Audubon in a bargain sale.

Project History: In 1998, the Conservancy approved a grant to Marin Audubon for \$127,750 to partially cover the cost of planning the project; however this authorization did not include funds for construction activities. On July 15, 1999, the Conservancy entered into an Interagency Agreement with the Departments of Transportation (Caltrans) and Fish and Game (DFG) to carry out the project. The Conservancy also administered a \$25,000 grant from USFWS for pre-

liminary planning. Later project planning was carried out by Marin Audubon using a mixture of Calfed (\$179,120) and Caltrans/Conservancy (\$42,000) funding. Marin Audubon has also provided biological investigations and considerable staff time toward the project.

The project suffered delays due to railroad right-of-way, real estate, engineering, and permitting issues. Between 1999 and 2003, Marin Audubon and the Conservancy worked with DFG biologists and various regulatory and resource agencies to resolve the issues. Marin Audubon also worked with members of the railroad authority to address the project's design and how it could affect the railroad right-of-way, ultimately agreeing to construct a levee to protect the railroad embankment. Additionally, once the levee design was started, it was discovered that the site soils contain high concentrations of peat, which complicated the engineering of the levee. Finally, during the permitting phase in early 2003, it was discovered that since the original permits and clearances were obtained in 1998/99, two species of fish had been added to the list of threatened and endangered species requiring additional ESA consultation with both the U.S. Fish and Wildlife Service and National Marine Fisheries Service. All permits and approvals for the project were obtained over the summer of 2003.

Marin Audubon also negotiated and in the fall of 2003 purchased the property for \$278,306 (including closing costs) using Calfed funding. The real estate appraisal was reviewed and approved by Conservancy staff in 1998.

PROJECT FINANCING:

Coastal Conservancy/Wildlife Conservation Board	\$ 339,000
Coastal Conservancy/Caltrans	1,320,301
Cal-Fed	225,329*
Grantee	<u>27,650</u>
Total Project Cost	\$1,912,280

*\$278,306 of additional Cal-Fed funding was expended on property acquisition.

It is anticipated that the Conservancy's funding will come from funding provided to the Conservancy by the Wildlife Conservation Board from the "Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002" (Proposition 50), which can be used for acquisition, protection, and restoration of coastal wetlands in the nine-county San Francisco Bay area that are identified in the San Francisco Baylands Ecosystem Habitat Goals Report. The Petaluma Marsh is identified for acquisition, protection, and restoration in the *San Francisco Baylands Ecosystem Habitat Goals Report* (1999), a local plan recognized in Proposition 50 as appropriate for selection of restoration projects in San Francisco Bay. The Conservancy will also administer funding provided by Caltrans to meet its obligations relating to Highway 37 widening.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The project is consistent with Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-31164). Under §31162, the Conservancy may undertake projects that will help to achieve specified goals for the San Francisco Bay Area Conservancy Program. Consistent with §31162(b), the project will help to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional importance. Consistent with §31163(d) this project is consistent with the County's General Plan and Goals Re-

port, approval will allow for immediate implementation of the project and the project will be carried out using a combination of Conservancy and non-Conservancy funding.

CONSISTENCY WITH THE STRATEGIC PLAN:

The project is consistent with *San Francisco Bay Program Goal 10, Objective A*, in that the grantee will assist in the acquisition and enhancement of 102 acres of tidal and non-tidal wetlands.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See "Project Financing" section above.
3. **Support of the public:** The project has widespread support, including U.S. Fish and Wildlife, Department of Fish and Game, S.F. Joint Venture, and the U.S. Army Corps of Engineers.
4. **Location:** The project area is on San Antonio Creek, in Sonoma County, within the nine-county jurisdiction of the Bay Area Conservancy (see Exhibit 1).
5. **Need:** Marin Audubon first proposed this project to the Conservancy in 1996 and has been working steadily to complete acquisition and planning tasks since that time. Completion of the project will provide mitigation for the impacts of Caltrans' highway work at Sonoma Creek and will add additional restored tidal marsh to San Francisco Bay.
6. **Greater-Than-Local Interest:** The Petaluma Marsh extends for miles along the Petaluma River and contains over 2,000 acres of tidal and non-tidal wetland resources. This project will expand the marsh into lands that were historically connected to the marsh system. The use of state highway mitigation funding, a successful state-NGO partnership, as well as the contribution by the landfill owners make this a unique endeavor and should educate other interested parties on innovative ways to carry out successful projects in other regions of the Bay Delta and throughout California.

Additional Criteria

7. **Urgency:** The grantee purchased the subject property in the fall of 2003, has completed all necessary permits and approvals and has final plans and specifications completed for the first phase of construction. The main source of funding has been reserved within the Caltrans budget for expenditure this fiscal year. Approval by the Conservancy for disbursement of these funds is required in order to initiate construction.
8. **Resolution of more than one issue:** The Conservancy serves as a facilitator for state funding of this project and brings together a common interest in restoring the site, while still allowing

each partner to work within its authorities. The existing Interagency Agreement requires that the Conservancy ensure the project is implemented, by managing funding from Caltrans and by seeing to it that the property is eventually transferred to the Department of Fish and Game. Without the Conservancy in this role, Marin Audubon would likely not have had access to the Caltrans funding, as they had no ability to provide funds directly to Marin Audubon. Additionally, DFG would like to add the parcel to the existing Petaluma River Wildlife Area but did not have the resources to acquire and restore the site.

9. **Leverage:** See the “Project Financing” section above. WCB funding, via the Conservancy, will be used to cover a budget shortfall equal to 8.4 percent of the total project cost. The majority of funding for the project has been and will continue to be from Caltrans. A one-time grant from Calfed for acquisition and restoration covers about 25 percent of the total project cost. Therefore, the contribution by the WCB/Conservancy is highly leveraged and will be important in completing the project.
10. **Conflict resolution:** If this property was not purchased for use as a restoration site, then it could have been sold to a developer with the intention of residential or commercial development; a land use that would have lead to conflict with county general plans including policies on open space preservation, wetland protection and restoration. Additionally, there is a slight chance that the landfill could have expanded into this are if the property was not used for another purpose.
11. **Innovation:** The project has used an innovative collaboration among the Conservancy, Caltrans, DFG, and the grantee, a local environmental nonprofit organization. The project brings together these four organizations, all who have a common interest in restoring the site, but it still allows each partner to work within its own authorities and expertise.
12. **Readiness:** Grantee has managed Conservancy and other state and federal grant funds for various projects, most recently the Bahia acquisition in Novato, involving seven funding agencies. The grantee has also implemented several restoration projects, most recently the Triangle Marsh in Corta Madera, funded in 1999 and currently in construction.
15. **Cooperation:** The Grantee has the full cooperation of the county government, the adjacent land owners and the funding agencies. An Interagency Agreement is in place that outlines the responsibilities of the funders, Caltrans and the Conservancy, and the recipient of the property, the Department of Fish and Game.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The Project is consistent with the policies of the San Francisco Bay Plan that call for restoration of former bay waters and wetlands in the North Bay and San Pablo Bay areas.

COMPLIANCE WITH CEQA:

An Initial Study and Negative Declaration that addresses impacts at the site was completed and filed by Caltrans with the State Clearinghouse on August 3, 2000. Staff has reviewed the Initial Study and Negative Declaration (Exhibit 4), and recommends that the Conservancy concur with the conclusions by Caltrans that the restoration of the subject property will not result in any significant adverse impacts to the environment.